IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 109 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)

Versus

MANAVADAR PATEL SAMAJ - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 28/09/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1.The Income Tax Appellate Tribunal, Ahmedabad Bench “C”

has referred the following question under Section 256(2) of the Income tax Act, 1961 (the Act) at the instance of the revenue :

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of section 13(1)(b) of the Income Tax Act, 1961 were not applicable and the assessee trust was entitled to exemption as claimed?"

2.The assessment year is 1979-80 :

3.Heard Mr.T.U.Bhatt, the learned standing counsel for the applicant revenue. Though served, there is no appearance on behalf of the respondent assessee.

4.Mr.Bhatt has very fairly invited attention to a decision of this Court in the case of Commissioner of Income Tax v. Leuva Patel Kelwani Mandal in Income Tax Reference No.115 of 1987, wherein identical issue was involved and the Court has upheld the order of the Tribunal.

5.In the circumstances, it is not necessary to set out

the facts and contentions in detail. Applying the ratio of the aforesaid decision rendered by this Court, the question referred is answered in the affirmative i.e. in favour of the assessee and against the revenue.

6. The Reference stands disposed of accordingly. There shall be no order as to costs.

[D.A.MEHTA, J.]

[HARSHA DEVANI, J.]

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